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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,306	09/25/2006	David Becker	2004P00791WOUS	1780
28159	7590	08/11/2011	EXAMINER	
PHILIPS INTELLECTUAL PROPERTY & STANDARDS			GUPTA, VANI	
P.O. BOX 3001			ART UNIT	PAPER NUMBER
Briarcliff Manor, NY 10510-8001			3777	
NOTIFICATION DATE		DELIVERY MODE		
08/11/2011		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/599,306

**Examiner**

VANI GUPTA

**Applicant(s)**

BECKER ET AL.

**Art Unit**

3777

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 June 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1.  The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a)  The period for reply expires \_\_\_\_ months from the mailing date of the final rejection.
- b)  The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2.  The Notice of Appeal was filed on 26 July 2011. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3.  The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 

- (a)  They raise new issues that would require further consideration and/or search (see NOTE below);
- (b)  They raise the issue of new matter (see NOTE below);
- (c)  They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d)  They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4.  The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5.  Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.

6.  Newly proposed or amended claim(s) \_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7.  For purposes of appeal, the proposed amendment(s): a)  will not be entered, or b)  will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: \_\_\_\_\_.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8.  The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9.  The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10.  The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11.  The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.

12.  Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.

13.  Other: \_\_\_\_\_.

/Tse Chen/  
Supervisory Patent Examiner, Art Unit 3777

/Vani Gupta/  
Examiner, Art Unit 3777

Continuation of 11. does NOT place the application in condition for allowance because: Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments are not persuasive. In response to Applicant's arguments on p. 6, Examiner points out that Applicant has not claimed any specifics with respect to an "array transducer." That is, the Applicant has not specified the dimensions or the array, whether it is phased, etc. Therefore, the claim could comprise an array transducer of any dimension and an array of any, such as a 1-dimensional array, 2-dimensional array, etc. Prior art reads on an array with at least 1-dimension. Furthermore, Applicant has misunderstood the office action. The office action DOES NOT say that rotating the transducer to produce a 3-dimensional image is a hallmark of an array transducer (for emphasis). The Office Action says that rotating an array transducer IS the hallmark of producing a three-dimensional image. In any case, whether the prior art can produce a three-dimensional image is irrelevant, because this feature is NOT actually claimed in the body of the claim. Features included in the preamble receive no patentable weight when the features refer to intended use of the invention.

In response to the arguments on p. 7, first paragraph: Examiner points out that the position sensor provides to the IMAGE processor information related to processing and GENERATING an image of at least two-dimensions (x and y). Silverstein suggests providing a third dimension (z) for intensity or depth, as would be known in the ordinary skill in the art. But, again, producing three-dimensional images is irrelevant, because this is not actually claimed in body of claim.

In response to Applicant's arguments on p. 7, second paragraph: Applicant refers to a feature (i.e. "allows for sweeping an image plane in front of the probe") is not actually claimed. All that the claim requires is that there be a "pivotally mounted array transducer," which prior art provides. See office action. If applicant feels that this feature is pertinent to patentability over prior art, then Applicant must place it IN the claim body.

In response to Applicant's arguments on p. 7, third paragraph: Examiner disagrees with Applicant's interpretation/assertion that the prior transducer is "on" the rigid compartment. On the contrary, Silverstein's rigid compartment is shaped as cavity IN which the transducer sits. The liquid surrounds the entire area, including the space WITHIN the cavity IN which the transducer (52) sits, and the area SURROUNDING the transducer body (50, 70). In any case, the claims DO NOT state that the liquid is supposed to be IN the transducer body (or "rigidly dimensioned compartment), only that it is constrained to the shaft section to the exclusion of the handle section (i.e. situated in the distal section.) Silverstein provides this.

Finally, in response to Applicant's arguments on p. 8, last portion: Applicant's arguments are moot in light of above responses. Furthermore, Applicant cannot attack references individually when the combination of the references is being used to make the rejection. Bushel is being sued for a specific feature that is not in relation to the list of features presented by the Applicant on p. 8, last paragraph.